

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Whether Standing Rock Telecommunications, Inc. Should be Designated an Eligible Telecommunications Carrier in Partial Rural Wire Centers So That It Can Serve the Entire Standing Rock Sioux Reservation)	WC Docket No. 09-197

**COMMENTS OF
THE UNITED STATES TELECOM ASSOCIATION**

USTelecom¹ submits these comments in response to the Federal Communications Commission’s (“Commission”) Public Notice² regarding whether Standing Rock Telecommunications, Inc. (“Standing Rock”) should be designated an Eligible Telecommunications Carrier (ETC) in partial rural wire centers so that it can serve the entire Standing Rock Sioux reservation. USTelecom takes no position on Standing Rock’s petition for service area modification, but does emphasize that if its request for partial wire center designation should be granted, the order should be very narrowly tailored so as not to undermine the Commission’s general policy against such grants.

I. Designation of ETC Status in Partial Rural Wire Centers Generally Is Not in the Public Interest

In the *Highland Cellular Order*, the Commission lays out several reasonable and sensible arguments for maintaining a general policy of not designating ETCs in partial

¹ USTelecom is the premier trade association representing service providers and suppliers for the telecommunications industry. USTelecom members provide a full array of services, including broadband, voice, data and video over wireline and wireless networks.

² See *Comment Sought on Whether Standing Rock Telecommunications, Inc. Should be Designated an Eligible Telecommunications Carrier in Partial Rural Wire Centers So That It Can Serve the Entire Standing Rock Sioux Reservation*, released August 24, 2010 (WC Docket No. 09-197).

rural wire centers.³ Partial rural wire center designation can lead to regulatory arbitrage within the high-cost universal service system. It could not only permit but actually promote cream-skimming, as well as increase the potential for a competitor to abandon its ETC designation at a later date.

The Commission wisely responds to these concerns in its *Highland Cellular Order*. The *Order* denies the designation of Highland Cellular as an ETC in a portion of a rural wire center, and makes several important statements germane to future requests for ETC designation in partial wire centers. According to the Commission, “making designations for a portion of a rural telephone company’s wire center would be inconsistent with the public interest.”⁴ The Commission adds that “prior to designating an additional ETC in a rural telephone company’s service area, the competitor must commit to provide the supported services to customers throughout a minimum geographic area. A rural telephone company’s wire center is an appropriate minimum geographic area for ETC designation....”⁵

II. The Borders of the Standing Rock Sioux Reservation Do Not Preclude Service to Entire Wire Centers

The desire of the tribal government to serve the entire Standing Rock Sioux reservation is understandable and can be accomplished without resorting to a partial rural wire center designation. Section 214(e)(A) of the Communications Act of 1934 (“Act”), as amended, permits an ETC to “offer the services that are supported by Federal universal service support mechanisms under Section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier’s services (including the

³ See *Highland Cellular Order*, 19 FCC Rcd at 6438, para. 33.

⁴ *Id.*

⁵ *Id.*

services offered by another eligible telecommunications carrier).”⁶ Standing Rock could request state certification as a competitive local exchange carrier (CLEC) outside of the borders of its reservation and serve entire wire centers exactly as the Act anticipates – through a combination of its own facilities and resale. Standing Rock could resell the facilities of the incumbent or any other carrier serving the remainder of the wire center.

III. Permitting Standing Rock to Partially Serve a Rural Wire Center Could Open the Door to Numerous Other Petitions

The Commission restricts this proceeding to the question of reconciling its prohibition on according ETC status to serve only a portion of a rural wire center with its desire to permit Standing Rock to serve the whole of the territory encompassed by the reservation. But it is not hard to imagine that similar arguments could be made by a local government entity, or by a cable television company whose franchise area covers only a portion of a rural wire center – typically the higher density, lower cost portion. Granting these potential ETCs partial wire center designation in rural study areas generally would be contrary to the Commission’s desire to extend universal service offerings to the greatest number of rural customers possible, because these entities typically seek support only with respect to areas that they already serve. The Commission should balance its policies relating to access to communications services and their important role in economic development with the conclusions on partial rural wire centers it reached in the *Highland Cellular Order*. If the Commission determines that it is appropriate to grant Standing Rock’s request, the Commission should do so only on a very narrow, fact-specific basis, in a manner that does not encourage additional partial wire center requests from non-tribal entities.

⁶ 47 U.S.C. Sec. 214(e)(A)

IV. Conclusion

The Commission should reaffirm its general policy of not designating ETCs for partial rural wire centers. If it chooses to grant Standing Rock's request, the Commission should do so narrowly, in a manner that does not undermine this sound policy.

Respectfully submitted,

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